

1974

## c 32 The Municipal Elections Amendment Act, 1974

Ontario

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## CHAPTER 32

**An Act to amend  
The Municipal Elections Act, 1972***Assented to June 18th, 1974*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 31 of section 1 of *The Municipal Elections Act, 1972*, being chapter 95, is repealed and the following substituted therefor: s. 1, par. 31,  
re-enacted

31. "regular election" means an election required to be held under section 10 of this Act.

2. Subsection 7 of section 4 of the said Act is amended by inserting after "Every" in the first line "returning officer". s. 4 (7),  
amended

3. Subsection 2 of section 7 of the said Act is repealed. s. 7 (2),  
repealed

4. The said Act is amended by adding thereto the following section: s. 7a,  
enacted

7a. A person appointed as a scrutineer under section 6 or 7, before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. Production  
of  
appointment

5. Sections 12 and 13 of the said Act are repealed and the following substituted therefor: ss. 12, 13,  
re-enacted

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, he, Electors,  
resident

(a) is a resident in such municipality;

(b) is a Canadian citizen or other British subject; and

- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Electors,  
non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, but at any time during such period, he,

- (a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;
- (b) is a Canadian citizen or other British subject; and
- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Judges not  
qualified  
to vote

13a. No judge of any court is qualified to vote in any election.

s. 15 (b),  
amended

6. Clause *b* of section 15 of the said Act is amended by striking out "making complaints" in the ninth line and inserting in lieu thereof "filing applications".

s. 16 (3),  
re-enacted

7. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:

Appointment  
to be filed

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the last day for filing applications for the revision of a preliminary list as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf.

s. 17 (1),  
amended

8. Subsection 1 of section 17 of the said Act is amended by striking out "June" in the third line and inserting in lieu thereof "April".

s. 18,  
amended

9. Section 18 of the said Act is amended by striking out "second Tuesday of October" in the third line and inserting in lieu thereof "30th day of September" and by striking out "during such period" in the seventh line.

s. 21a,  
enacted

10. The said Act is further amended by adding thereto the following section:

Correction  
of list if  
manifest  
errors in it

21a. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 21 is not in conformity with the require-

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be, may, prior to the printing or reproduction of the list required under section 22, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections, showing the appropriate assessment roll number against each such correction.

11. Section 22 of the said Act is repealed and the following substituted therefor: s. 22, re-enacted

22. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 21, the clerk or secretary of the school board referred to in the said section 21, after making corrections, if any, under section 21a, shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors. Printing of list

- 12.—(1) Clauses *a* and *c* of subsection 1 of section 23 of the said Act are repealed and the following substituted therefor: s. 23 (1) (a, c), re-enacted

(a) fix the places at which and the times when revision of the list will be undertaken;

. . . . .

(c) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

- (2) Subsection 2 of the said section 23 is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications for revision". s. 23 (2), amended

- (3) The said section 23 is amended by adding thereto the following subsection: s. 23, amended

(2a) The last day for the filing of applications for revision of the preliminary list shall be the second Friday preceding nomination day and such applications may be filed with the clerk during his normal office hours. Last day for filing applications for revision of preliminary list



s. 23 (3) (a, d),  
re-enacted

- (4) Clauses *a* and *d* of subsection 3 of the said section 23 are repealed and the following substituted therefor:

(a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;

. . . . .

(d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions.

s. 24,  
re-enacted

- 13.** Section 24 of the said Act is repealed and the following substituted therefor:

Revision  
of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed before the last day for filing applications for revision of the list have been disposed of.

When  
applications  
may be  
considered

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them.

s. 25 (1, 2),  
re-enacted

- 14.** Subsections 1 and 2 of section 25 of the said Act are repealed and the following substituted therefor:

Application  
to enter name  
in list or  
correct  
information

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included in the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application  
and  
declaration

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands

the effect of the statements in the application and that he is an elector entitled to have his name included in the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name in the list or corrects the preliminary list, as the case may be.

(2a) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. Application filed personally or by agent

**15.—**(1) Subsection 1 of section 26 of the said Act is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications" and by striking out "a complaint" in the fourth line and inserting in lieu thereof "an application". s. 26 (1), amended

(2) Subsections 2, 3, 4 and 5 of the said section 26 are repealed and the following substituted therefor: s. 26 (2-5), re-enacted

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice. Notice to person where name objected to

(3) A copy of the application shall accompany a notice served or sent under subsection 2. Copy of application to be served

(4) The clerk shall notify the applicant of the time and place of the hearing. Notice to applicant

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if he is satisfied of the validity of the application. Decision of clerk, etc.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found Where person objected to does not appear



and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

s. 28,  
re-enacted

- 16.** Section 28 of the said Act is repealed and the following substituted therefor:

Statement  
of change

28. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, showing the appropriate assessment roll number for each inclusion, addition, change and deletion, and shall send a certified copy of such statement to each person specified in subsections 4 and 5 of section 23.

s. 29 (2),  
amended

- 17.** Subsection 2 of section 29 of the said Act is amended by inserting after "the" where it occurs the second time in the fifth line "money".

s. 31 (1, 2),  
re-enacted

- 18.—(1)** Subsections 1 and 2 of section 31 of the said Act are repealed and the following substituted therefor:

Entry of name  
on list by  
D.R.O.

(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

(2) Subsection 3 of the said section 31 is amended by adding <sup>s. 31 (3), amended</sup> at the end thereof "or 2".

(3) Subsection 4 of the said section 31 is repealed and the <sup>s. 31 (4), re-enacted</sup> following substituted therefor:

(4) The clerk shall furnish a copy of each certificate issued <sup>Copy to assessment com- missioner</sup> under this section, with the appropriate assessment roll number endorsed thereon, to the assessment commissioner.

(5) The deputy returning officer shall enter or cause to be <sup>Entry in poll book</sup> entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 31 certificate".

(6) The deputy returning officer shall enclose all certi- <sup>Certificates to be kept in separate envelope</sup> ficates to which this section applies in one envelope.

**19.**—(1) Section 33 of the said Act is amended by adding thereto <sup>s. 33, amended</sup> the following subsection:

(1a) Where under subsection 1 nomination day would <sup>Nomination day not to be November 11th</sup> ordinarily be the 11th day of November, nomination day shall, instead, be Tuesday, the twentieth day before polling day.

(2) Subsections 2 and 3 of the said section 33 are repealed <sup>s. 33 (2, 3), re-enacted</sup> and the following substituted therefor:

(2) The period during which persons may be nominated as <sup>Period for nomination</sup> candidates in an election shall be the four days, or, if subsection 1a applies, the five days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day.

(3) The clerk shall publish at least six days prior to the <sup>Notice of nomination period</sup> commencement of the period in which nominations may be filed, notice of the time of commencement and closing of such period and of the offices for which persons may be nominated as candidates in the election in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

**20.**—(1) Subsection 1 of section 34 of the said Act is repealed <sup>s. 34 (1), re-enacted</sup> and the following substituted therefor:



How  
nominated

(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, during the normal office hours of the clerk within the period in which nominations may be filed, a nomination paper in prescribed form which,

(a) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;

(b) shall state the name, occupation and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

s. 34 (3),  
amended

(2) Subsection 3 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 34 (4),  
amended

(3) Subsection 4 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 35 (2),  
amended

**21.**—(1) Subsection 2 of section 35 of the said Act is amended by striking out "for a candidate for an office" in the first line.

s. 35 (4),  
amended

(2) Subsection 4 of the said section 35 is amended by striking out "the nomination paper for a candidate for an office" in the first line and inserting in lieu thereof "a nomination paper", so that the subsection, exclusive of the clauses, shall read as follows:

Where  
filed on  
nomination  
day

(4) Where a nomination paper is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

s. 35 (6),  
amended

(3) Subsection 6 of the said section 35 is amended by striking out "candidates" in the fourth line and inserting in lieu thereof "persons".

s. 39 (2),  
amended

**22.** Subsection 2 of section 39 of the said Act is amended by inserting after "poll" in the second line "and notice of the last day for making application to the clerk for a certificate

to vote by proxy" and by inserting after "publishing" in the fourth line "the notice".

**23.**—(1) Subsection 1 of section 40 of the said Act is amended <sup>s. 40 (1),  
amended</sup> by striking out "in prescribed form" in the second line.

(2) Subsection 2 of the said section 40 is repealed and the <sup>s. 40 (2),  
re-enacted</sup> following substituted therefor:

(2) In place of using ballot papers under this Act, the <sup>Voting  
machines,  
etc.</sup> council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at the election in that year of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed.

(3) Where a municipality authorizes the use of voting <sup>Minister's  
order</sup> machines, voting recorders or other voting devices, the Minister shall, by order, provide for all procedures which may be necessary to implement the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order.

**24.** In the year 1974, the date on or before which a by-law under <sup>Application  
in 1974</sup> subsection 2 of section 40, as re-enacted by section 23 of this Act, may be passed is the 28th day of June.

**25.** Subsections 7 and 8 of section 41 of the said Act are repealed <sup>s. 41 (7, 8),  
re-enacted</sup> and the following substituted therefor:

(7) All ballots for election to the same office shall be of <sup>Ballots  
for same  
office to  
be alike</sup> the same description and as nearly alike as possible, and the names and occupations, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices.

(8) A ballot shall contain instructions as to the number <sup>Number of  
candidates  
and name  
of office</sup> of candidates for which a voter may vote and the name of the office for which the election is being held.

**26.** Clause *a* of subsection 7 of section 42 of the said Act is <sup>s. 42 (7) (a),  
amended</sup> amended by striking out "or" at the end of subclause iii, by adding "or" at the end of subclause iv and by adding thereto the following subclause:

(v) member of the council of both an area municipality and a regional municipality.



s. 43 (1),  
amended

- 27.** Subsection 1 of section 43 of the said Act is amended by striking out "and approved by the Minister" in the second and third lines.

s. 45 (1),  
re-enacted

- 28.** (1) Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Polling  
places in  
institutions

(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only.

s. 45 (3),  
repealed

- (2) Subsection 3 of the said section 45 is repealed.

s. 54,  
amended

- 29.** Section 54 of the said Act is amended by adding thereto the following subsection:

Copy to  
clerk and  
assessment  
com-  
missioner

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, after endorsing thereon the appropriate assessment roll number, furnish it forthwith to the assessment commissioner.

s. 56 (1),  
repealed

- 30.** -(1) Subsection 1 of section 56 of the said Act is repealed.

s. 56 (2),  
amended

- (2) Subsection 2 of the said section 56 is amended by inserting after "oath" in the second line "under section 53 or 55".

s. 63,  
amended

- 31.** Section 63 of the said Act is amended by inserting after "The" where it occurs the first time in the first line "returning officer, the assistant returning officer, the".

s. 64 (1),  
re-enacted

- 32.**-(1) Subsection 1 of section 64 of the said Act is repealed and the following substituted therefor:

Advance  
poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 31 or who become entitled to vote under section 54.



(1a) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk of additional advance polls for the same purposes as provided in subsection 1. Additional advance poll

(2) Subsection 2 of the said section 64 is amended by striking out "of the two days" in the second and third lines and inserting in lieu thereof "day". s. 64 (2), amended

(3) Subsection 4 of the said section 64 is repealed. s. 64 (4), repealed

**33.**—(1) Subsection 1 of section 65 of the said Act is amended by inserting after "subdivision" in the second line "or who has obtained a certificate under section 31 entitling him to vote". s. 65 (1), amended

(2) Subsection 3 of the said section 65 is amended by inserting after "the" in the third line "parent, grandparent". s. 65 (3), amended

(3) Subsection 6 of the said section 65 is amended by striking out "shall" in the first line and inserting in lieu thereof "may". s. 65 (6), amended

**34.** Subsection 1 of section 76 of the said Act is amended by striking out "and" at the end of clause *b*, by adding "and" at the end of clause *c* and by adding thereto the following clause: s. 76 (1), amended

(d) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 54.

**35.** Subsection 2 of section 81 of the said Act is amended by striking out "the municipality whose clerk was the returning officer" in the thirteenth and fourteenth lines and inserting in lieu thereof "a municipality or a school board" and by striking out "thereof" in the eighteenth line and inserting in lieu thereof "who made the declaration". s. 81 (2), amended

**36.**—(1) Subsection 3 of section 84 of the said Act is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board". s. 84 (3), amended

(2) Subsection 6 of the said section 84 is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board". s. 84 (6), amended

**37.** Subsection 1 of section 88 of the said Act is repealed and the following substituted therefor: s. 88 (1), re-enacted

Inspection  
of ballots

(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

s. 90 (4),  
re-enacted

**38.**—(1) Subsection 4 of section 90 of the said Act is repealed and the following substituted therefor:

List of  
electors

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 22 to 28 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause *a* of section 36 or subsection 3 of section 38, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the day on which the polling for the last regular election was held.
2. Where a new election is required under section 109, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 109.
3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which an elector may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the passing of the by-law by council or the adoption of the resolution by the school board, as the case may be.
4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law

or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. R.S.O. 1970, c. 284

- (2) The said section 90 is amended by adding thereto the following subsections: s. 90, amended

(5a) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 29 and to entry of names in the list under sections 31 and 54. Certification of list

(8) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. Revision of partial list

- 39.** Subsection 1 of section 115 of the said Act is amended by adding at the end thereof "or to the secretary of the local board, as the case requires", so that the subsection shall read as follows: s. 115 (1), amended

(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. Duplicate of disclaimer to clerk

- 40.** Section 116 of the said Act is amended by inserting after "council" in the fourth line "or as trustee of a police village or as member of a local board, as the case may be". s. 116, amended

- 41.** Section 117 of the said Act is repealed and the following substituted therefor: s. 117, re-enacted

117. The Minister may make regulations prescribing forms for the purposes of this Act. Regulations

- 42.—**(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1975. Idem

- 43.** This Act may be cited as *The Municipal Elections Amendment Act, 1974*. Short title



